

IN THE SENATE OF THE UNITED STATES.

MAY 19, 1896.—Ordered to be printed.

Mr. BURROWS, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 2988.]

The Committee on Claims, to whom was referred the bill (S. 2988) for the relief of W. J. Tapp & Co., report:

Bills similar to the accompanying bill were favorably reported to the House of Representatives by the Committee on Ways and Means in the Forty-sixth Congress, and by the Committee on Claims in the Fiftieth, Fifty-first, Fifty-second, and Fifty-third Congresses, and a bill identical in terms with this passed the House in the Fifty-third Congress, but no action was taken thereon by the Senate.

The report of the Committee on Ways and Means to the House of Representatives in the Forty-sixth Congress and readopted by the Committee on Claims of that body in subsequent Congresses, sets forth the following facts:

In May, 1876, W. J. Tapp & Co., of Louisville, in the State of Kentucky, manufacturers of goods from jute fiber, imported certain machinery for their business, such machinery not being then made in the United States, to be used by them exclusively in the manufacture of that fiber, and which was adapted to and could be used for no other purpose. By the provisions of section 7 of the act of February 8, 1875, such machinery was entitled, for two years thereafter, to entry free from duty.

On the 12th of November, 1875, the Secretary of the Treasury decided that no machinery was exclusively adapted to such manufacture.

When the machinery of Tapp & Co. arrived at the port of entry they claimed it was entitled to be admitted free under the law, but the claim was denied, and the duties and charges, amounting to \$240.10, gold, were paid by them under protest. Other importers of similar machinery pursued the same course.

The Secretary of the Treasury subsequently, on the 23d of March, 1877, reversed his former decision and admitted duty free similar machinery imported in October, November, and December, 1875, by Buchanan & Lyall, of New York.

Thereafter Tapp & Co. applied to the Department for a rebate of the duties they had paid, and were refused on the ground that they did not appeal from the original decision of the appraiser of customs declaring their machinery dutiable. The law provided for such appeal, but having paid the duties under protest they deemed it unnecessary, and no doubt supposed it would be unavailing to appeal to a tribunal which had then recently, as to other parties, decided the same question adversely to their claim.

In view of the fact that the Supreme Court had decided that "a payment made to a public officer in discharge of a fee or tax illegally exacted is not such a voluntary payment as will preclude the party from recovering it back" (111 U. S., 22), your committee are of the opinion that the parties are entitled to the relief asked for, and recommend the passage of the accompanying bill.

Your committee adopt the foregoing report, and recommend that the bill do pass.